

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

HEMAD ENTERPRISES, INC.
7911 W. Beechwood Avenue
Milwaukee, WI 53223

Plaintiff,

v.

Case No. _____
Milwaukee County Circuit Court
Case No. 15 CV 000840

ENDURANCE AMERICAN
SPECIALTY INSURANCE COMPANY

Defendant.

**DEFENDANT ENDURANCE AMERICAN SPECIALTY
INSURANCE COMPANY'S NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1446, Defendant Endurance American Specialty Insurance Company ("Defendant") in the above captioned matter gives notice of removal from the Circuit Court of Milwaukee County, State of Wisconsin, where the action was commenced and is pending, to the United States District Court for the Eastern District of Wisconsin. In support of this Notice, Defendant states as follows:

1. Plaintiff Hemad Enterprises, Inc. (Hemad) initiated this action by filing a Complaint in the Milwaukee County Circuit Court, State of Wisconsin, on January 30, 2015 captioned *Hemad Enterprises, Inc. v. Endurance American Specialty Insurance Company*, Case No. 15 CV 000840.

2. A copy of the Summons and Complaint was thereafter served on Endurance American Specialty Insurance Company on February 26, 2015 at Defendant's corporate headquarters at 750 Third Avenue, 18th Floor, New York, NY 10017.

3. There are no defendants to this action except Defendant Endurance American Specialty Insurance Company.

4. Plaintiff's Complaint alleges causes of action for breach of contract, promissory estoppel, bad faith, pre-judgment interest and declaratory relief. The Complaint specifically states that the damages sought for the breach of contract alone are \$678,648.95 less \$92,000 previously paid by Defendant. As such, the amount in controversy is in excess of the amount required for diversity jurisdiction purposes (\$75,000). (See attached Complaint at ¶¶ 10 and 18.)

5. The factual allegations on the face of Plaintiff's pleading are sufficient to show the requisite jurisdictional amount in controversy has been met. *Perry v. Transamerica Life Ins. Co.*, No. 10-3104, 2010 WL 2721819, at *2 (C.D. Ill. July 8, 2010)(citing *Meridian Sec. Ins. Co. v. Sadowski*, 441 F.3d 536, 541 (7th Cir. 2007) ("the amount in controversy requirement is determined by the allegations in the plaintiff's complaint at the time the notice of removal is filed")). "The court takes into consideration the value of all relief sought, including injunctive and declaratory relief." *Perry v. Transamerica Life Ins. Co.*, No. 10-3104, 2010 WL 2721819, at *2 (C.D. Ill. July 8, 2010) (citing *America's MoneyLine, Inc. v. Coleman*, 360 F.3d 782, 786 (7th Cir. 2004)).

6. Defendant Endurance American Specialty Insurance Company is a corporation created under the laws of the state of Delaware and having its principal place of business at 750 Third Avenue, 18th Floor, New York, NY 10017.

7. Plaintiff, Hemad Enterprises, Inc. is a Wisconsin corporation having its principal place of business located at 7911 W. Beechwood Avenue, Milwaukee, WI 53223.

8. The diversity of citizenship of the parties existed at the time of the filing of the Complaint in state court and at the time of this Notice of Removal.

9. A copy of all process, pleadings, and orders served upon the Defendant is filed with this notice.

10. Thus, pursuant to 28 U.S.C. § 1332 (a)(1), this Court has jurisdiction because of the complete diversity of citizenship of the parties and a sufficient amount in controversy.

11. This Notice of Removal is filed within thirty (30) days after service upon Defendants of the Complaint by which this action was commenced in state court, and is therefore timely filed pursuant to 28 U.S.C. § 1446(b).

12. Defendant will give written notice of the filing of this notice as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendants request this Notice of Removal be accepted by this Court, and that this lawsuit proceed as an action properly removed to this Court's jurisdiction.

Dated this 2nd day of March, 2015.

von BRIESEN & ROPER, s.c.
*Attorneys for Defendant Endurance
American Specialty Insurance Company*

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of March, 2015 I served the attached document by U.S. Mail, with proper postage fully prepaid thereon to the following:

Mr. Michael P. Konz
Gabert, Williams, Konz & Lawrynk, LLP
2711 N. Mason Street, Suite B
Appleton, WI 54914

Milwaukee County Clerk of Circuit Court
901 N 9th Street, Room 104
Milwaukee, WI 53233

/s/ Marianne Kiepert
Marianne Kiepert